

Malibu City Council **Amended¹ Regular Meeting Agenda**

Monday, July 12, 2004

5:00 P.M. – CLOSED SESSION
City Hall – Large Conference Room
23815 Stuart Ranch Road

6:30 P.M. – REGULAR CITY COUNCIL MEETING
City Hall – Council Chambers
23815 Stuart Ranch Road

Five-thirty p.m. Closed Session

This time has been set aside for the City Council to meet in a closed session to discuss matters of pending litigation pursuant to Government Code Sections 54956.9(a), 54956.8 and 54957. Based on the advice of the City Attorney discussion in open session concerning these matters would prejudice the position of the City in this litigation. The City Attorney will give an additional oral report regarding the closed session at the beginning of the next regular City Council meeting.

Public Comment on Closed Session Items

Conference with Legal Counsel - Existing litigation per Government Code Section 54956.9 (a):

1. City of Arcadia, et al. v. Regional Water Quality Board, et al.
Los Angeles County Superior Court Case Nos. BS080807, BS080548, SO80753, BS080758, BS080791
2. City of Malibu v. California Coastal Commission (Streisand Center Coastal Permit)
Los Angeles County Superior Court Case No. BC230410
3. City of Malibu v. California Coastal Commission / TLC / Liebig (Referendum)
Los Angeles County Superior Court Case No. SS011355 (on appeal)
4. City of Malibu v. California Coastal Commission (AB988 / LCP)
Los Angeles County Superior Court Case No. SC074641
Related cases (city named as a party in interest):
 - a. Rick Appel v. California Coastal Commission
Los Angeles County Superior Court Case No. SC074658
 - b. Ralph Herzig v. California Coastal Commission
Los Angeles County Superior Court Case No. SS011382
 - c. Primrose Company v. California Coastal Commission
Los Angeles County Superior Court Case No. SS011386
 - d. Riverview Farm Associates v. California Coastal Commission
Los Angeles County Superior Court Case No. SS011383
 - e. Brian Sweeney v. California Coastal Commission
Los Angeles County Superior Court Case No. SS011387
 - f. Trancas-PCH v. California Coastal Commission

¹ See new Item No. 4.D.

See new Staff Recommendation for Item No. 5.A.

- Los Angeles County Superior Court Case No. SC074640
- g. Tuna Ridge v. California Coastal Commission
Los Angeles County Superior Court Case No. SC011381
- h. Land Use Preservation Defense Fund v. California Coastal Commission
Los Angeles County Superior Court Case No. SS011388
- 5. Colony Beach Preservation Association v. California Coastal Commission
Los Angeles County Superior Court Case No. BS083683
- 6. Fisher v. City of Malibu
Los Angeles County Superior Court Case No. SS012372
- 7. Latigo Canyon Preservation Association v. City of Malibu; Rubens, et al
Los Angeles Superior Court Case No. BS089812
- 8. Lou Adler v. City of Malibu
Los Angeles County Superior Court Case No. BS087518
- 9. Marine Forest Society v. California Coastal Commission Case No. 00AS00567 (Amicus)
- 10. Sierra Club v. City of Malibu (Forge Lodge)
Los Angeles County Superior Court Case No. BS083573
- 11. Silver v. City of Malibu
Los Angeles County Superior Court Case No. BS081960
- 12. Sweeney et al v. City of Malibu
Los Angeles County Superior Court Case No. SS011602
- 13. Taxpayers for Livable Communities; Jay Liebig II v. City of Malibu
Los Angeles County Superior Court Case No. BS0735585 (on appeal)
- 14. Trancas Property Owners Association v. City of Malibu
Los Angeles County Superior Court Case No. BS084112
- 15. United States of America ex rel. Darian v. Accent Builders inc. et al.
United States District Court Case No. CV00-10255-FMC(JWJx)
- 16. Visher v. City of Malibu
Los Angeles County Superior Court Case No. SC078703

Real Estate negotiation matters pursuant to Government Code Section 54956.8:

- 17. Property APN: 4458-018-002, 018, 019
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Roy E. Crummer
Under Negotiation: Price and terms of payment

18. Property APN: 4458-020-007 and 4458-020-016 commonly known as the Chili Cook-off Parcels
City Negotiator: City Manager Lichtig / City Attorney Hogin
Property Negotiator: Malibu Bay Company
Under Negotiation: Price and terms of payment
19. Property located at: 23801 and 23833 Stuart Ranch Road
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Yamaguchi Tokiye Trust
Under Negotiation: Price and terms of payment

Personnel matters pursuant to Government Code Section 54957:

20. Public Employee Performance Evaluation
Title: City Treasurer
21. Unrepresented Employee: City Treasurer
Agency Negotiator: Mayor or Designee

Six-thirty p.m. Regular Session

Public Hearings will begin at 6:30 p.m., or as soon thereafter as possible, but in no event later than 7:30 p.m.

Call to Order - Mayor

Roll Call - Recording Secretary

Pledge of Allegiance

Closed Session Report

Approval of Agenda

Report on Posting of Agenda – July 2, 2004; Amended Agenda posted July 7, 2004

1. Ceremonial/Presentations

2. Written and Oral Communications from the Public

- A. Communications from the Public concerning matters which are not on the agenda but for which the City Council has subject matter jurisdiction. City Council may not act on these matters except to refer the matters to staff or schedule the matters for a future agenda.
- B. City Council Subcommittee reports/Mayor and Councilmember reports and inquiries.

3. Consent Calendar

- A. Previously Discussed Items

None.

B. New Items

1. Waive further reading

Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

Staff contact: City Attorney Hogin, 456-2489 ext. 228

2. Approve Warrants

Staff recommendation: Allow and approve warrant demand numbers 25241 through 25377 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 312 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of \$191,594.43. ADP payroll voucher numbers 10722261– 10722281 were issued in the amount of \$111,122.82.

Staff contact: Administrative Services Director James, 456-2489 ext. 224

3. Approval of Minutes

Staff recommendation: Approve City Council meeting minutes for the June 14, 2004 Regular City Council meeting.

Staff contact: City Clerk Pope, 456-2489 ext. 228

4. Denial of Claim for Damages filed by Farshad and Elizabeth Harandi

On June 17, 2004, Farshad and Elizabeth Harandi served the City with a claim alleging injury resulting from being struck by a vehicle at 26060 Pacific Coast Highway. The location of incident is on Pacific Coast Highway which is maintained and/or controlled by the State of California, Department of Transportation. Staff submitted said claim to Carl Warren & Co., the City's Claims Management Adjusters. Pursuant to the provisions of the Government Code all claims must be responded to within 45 days of receipt. Failure to take any action will extend the statute of limitations to two years.

Staff recommendation: Deny claim filed by Farshad and Elizabeth Harandi.

Staff contact: City Clerk Pope, 456-2489 ext. 228

5. Amendments to Agreements with Civic Solutions, Incorporated and Hogle-Ireland, Incorporated for Planning Services

The City currently has an agreement with Civic Solutions, Incorporated for general planning services. On October 22, 2003, the agreement was amended to extend the term and amend the compensation. Proposed Amendment No. 2 extends the term of the Agreement from June 30, 2004 to June 30, 2005 and amends the compensation for service. The City also has an agreement with Hogle-Ireland, Incorporated for planning services. Proposed Amendment No. 1 extends the term of the Agreement from June 30, 2004 to June 30, 2005 and amends the compensation of service.

Staff recommendation: 1) Approve Amendment No. 2 to the Agreement between the City of Malibu and Civic Solutions, Incorporated to extend the term of the Agreement through June 30, 2005 and to amend the compensation for services to read "The City shall pay the Consultant for its professional services rendered and costs incurred pursuant to this Agreement such that all services shall be at rates included in Schedule of Fees, dated June 2004. Additional hours may be needed for evening meetings. No additional compensation shall be paid for any other expenses incurred, unless first approved by the City Manager or his/her designee"; and 2) approve Amendment No. 1 to the Agreement between the City of Malibu and Hogle-Ireland, Incorporated to extend the term of the Agreement through June 30, 2005 and to amend the compensation for services to replace "Exhibit A - Schedule of Hourly Rates dated February 1, 2003" with "Exhibit A-1 - Schedule of Hourly Rates, dated February 1, 2004" and delete "The cost of services will be provided at an hourly rate of \$76.50 per hour."

Staff contact: Planning Manager Teruya, 456-2489 ext. 243

6. Vision 2020 Request for Proposal

Staff recommendation: Approve the proposed Request for Proposal (RFP) and direct the City Manager to solicit proposals from qualified consultants for project management and strategic planning services to assist the Malibu Vision 2020 Team.

Staff contact: City Manager Lichtig, 456-2489 ext. 226

7. Initiation of Proceeding to Vacate Portion of Public Street Easement on Broad Beach Road (Continued from June 14, 2004)

A request has been made to vacate a portion of the road easement on Broad Beach Road. This item, if approved, will set the date, time and place for a public hearing and will initiate the proceedings to vacate the road easement.

Staff recommendation: Adopt Resolution No. 04-34 initiating proceedings to vacate a portion of the easement on Broad Beach Road near the intersection of Pacific Coast Highway and Broad Beach Road (east end) and set the date, time and place for the required Public Hearing as August 9, 2004, 6:30 p.m., in the Council Chambers at 23815 Stuart Ranch Road.

Staff contact: Public Works Director Lall, 456-2489 ext. 247

4. Ordinances and Public Hearings

This portion of the agenda is for ordinances and for advertised hearing items where formal public testimony on each item is received prior to City Council action; the public hearings will begin at 6:30 p.m., or as soon thereafter as possible, but in no event later than 7:30 p.m.

A. Los Angeles County 2004 Congestion Management Plan Conformance and Self-Certification

The City is required to self-certify that it is in conformance with Los Angeles County's Congestion Management Program. This self-certification entails adopting a resolution finding that (1) in odd-numbered years, the City conducts annual traffic counts and calculated levels of service for selected arterial intersections; (2) the City implements a transportation demand management ordinance, and; (3) the City implements a land use analysis program. This year, the City is reporting 29 net new dwelling units and about 820 square feet of net new non-residential development.

Staff recommendation: Adopt Resolution No. 04-40 finding the City to be in conformance with the Congestion Management Program (CMP) and adopting the CMP Local Development Report, in accordance with California Government Code Section 65089.

Staff contact: Planning Manager Teruya, 456-2489 ext. 243

B. Mitigated Negative Declaration No. 01-007 / Plot Plan Review No. 00-094 / Variance No. 00-036 - A Request to Allow Grading in Excess of 1,000 Cubic Yards, Retaining Walls Exceeding Six Feet High and Construction on Slopes Greater than 2 ½:1 In Conjunction with the Construction of a 20-foot Wide, 1,669- foot Long, Private Access Road Located Northeast of Sweetwater Mesa Road. Applicant: Schmitz and Associates; Settlement: Brian Sweeney, Mika Heights, LLC, Jean Ross, LLC, and Catherine Isabel, LLC; Location: Sweetwater Mesa Road (Continued from June 28, 2004)

An application was submitted for the construction of a private street, northeast of Sweetwater Mesa Road. The street is proposed within an access easement that crosses three properties within the city limits. On July 22, 2002, the City Council adopted Resolution No. 02-05, which denied the requested plot plan review and variance for grading quantities, retaining wall height in excess of six feet, and site of construction (on slopes in steeper than 2-1/2:1). The applicant challenged this decision through a lawsuit against the City. On March 11, 2004, the Los Angeles Superior Court remanded this case back to the City for reconsideration. On June 14, 2004, the City Council held a public hearing on this matter and continued this hearing to the June 28, 2004 meeting. On June 28, 2004, the City Council again continued this matter at the request of staff.

Staff recommendation: Adopt Resolution No. 04-29 adopting Mitigated Negative Declaration 01-007 and approving Plot Plan Review No. 00-094 and Variance No. 00-036 for the construction of a 20-foot wide, 1,669-foot long, private access road located northeast of Sweetwater Mesa Road and rescinding City Council Resolution No. 02-05, as adopted on July 22, 2002.

Staff contact: Planning Manager Teruya, 456-2489 ext. 243

C. Zoning Text Amendment No. 00-003 / Negative Declaration No. 00-005 – An Amendment to Title

17 (Zoning) of Malibu Municipal Code Section 17.40.040(A)(13)(c) (Basements) and Section 17.02.060 (Definitions) to Revise Development Standards and Definitions Related to Basements (Continued from June 14, 2004)

On May 10, 2004 meeting, the City Council considered amendments to the City's Zoning Ordinance to revise development standards as they relate to basements. The City Council reviewed the proposed Zoning Text Amendment (ZTA) and provided staff with specific direction to incorporate the Council's recommended changes into the ZTA and bring it back in ordinance format for first reading.

Staff Recommendation: 1) Adopt Resolution No. 04-33 adopting Negative Declaration No. 00-005 for an amendment to Title 17 (Zoning) of the Malibu Municipal Code, to revise definitions and development standards related to basements; 2) after the City Attorney reads the title of the ordinance, introduce on first reading Ordinance No. 266 approving Zoning Text Amendment No. 00-003 an amendment to Title 17 (Zoning) of the Malibu Municipal Code, Chapter 17.02 (Introductory Provisions and Definitions) and Chapter 17.40 (Property Development and Design Standards); and 3) direct staff to schedule second reading and adoption of Ordinance No. 266 on July 26, 2004.

Staff contact: Planning Manager Teruya, 456-2489 ext. 243

D. Collection of Solid Waste Fee Within the Malibu Garbage District

Staff recommendation: Continue the public hearing to the July 26, 2004 Regular City Council meeting.

Staff contact: Public Works Director Lall, 456-2489 ext. 247

5. Old Business

A. Recommendation from Parks & Recreation Commission regarding Co-Sponsorship of Proposed Malibu Marathon and Resolution

Malibu Marathon LLC and the Parks and Recreation Department are requesting authorization for the City to Co-Sponsor a Malibu Marathon to be held in Malibu in December of 2004. Proceeds from the event will benefit local charities.

Staff recommendation: Continue the item to the July 26, 2004 City Council meeting.

Staff contact: Parks and Recreation Director Adams, 456-2489 ext. 225

B. Campaign Finance and Campaign Watch Commission

Staff recommendation: Provide direction as to (1) whether to amend the City's Campaign Finance Ordinance to (a) increase the contribution limit; (b) revise the definition of independent expenditures to reflect the Supreme Court's ruling re "magic words" test; (c) revise provision to regulate more effectively independent committees not specifically formed for an election; and (2) whether to pursue a more permanent Campaign Watch Commission.

Campaign Watch Commission Recommendations: (1) Urge the Santa Monica League of Women Voters to organize a Campaign Watch Commission under its auspices to serve Malibu voters; and (2) Increase the campaign contribution limit to at least \$500.

Staff contact: City Attorney Hogin, 456-2489 ext. 228

6. New Business

None.

7. Council Items**A. Council Appointment to the Native American Cultural Resources Advisory Committee**

Due to recent resignation, a vacancy exists on the Native American Cultural Resources Advisory Committee. The unscheduled vacancy notice has been posted in excess of the legally required 10 working days. At this time, the Council has the opportunity to make the appointment to fill the vacancy.

Staff recommendation: Appoint one Committee member to the Native American Cultural Resources Advisory Committee.

Staff contact: City Clerk Pope, 456-2489 ext. 228

Adjournment**Future Meetings**

Wed., July 21, 2004	6:00 p.m.	Quarterly City Council Meeting	City Hall Council Chambers
Mon., July 26, 2004	6:30 p.m.	Regular City Council Meeting	City Hall Council Chambers
Mon., August 9, 2004	6:30 p.m.	Regular City Council Meeting	City Hall Council Chambers
Mon., August 23, 2004		CANCELLED	

Guide to the City Council Proceedings

The Oral Communication portion of the agenda is for members of the public to present items which are not listed on the agenda, but are under the subject matter jurisdiction of the City Council. No action may be taken under this section except to direct staff unless the Council, by a two-thirds vote, determines that the need to take action arose after the posting of the agenda or that the item presents an emergency situation for which action is required prior to the next regularly scheduled meeting of the City Council. Although no action may be taken on these non agenda items, the Council and staff will follow up on those items needing response. Each speaker is limited to (3) three minutes. Time may be surrendered by deferring (1) one minute to another speaker, on the same item, not to exceed a total of (8) eight minutes. The speaker wishing to defer time must be present when the item is heard. In order to be recognized and present an item, each speaker must complete and submit to the Recording Secretary a Request to Speak form prior to the beginning of the item being announced

by the Mayor (forms are available at the Chamber doors). Speakers are taken in the order slips are submitted.

Items in Consent Calendar Section A have already been considered by the Council at a previous meeting where the public was invited to comment, after which a decision was made. These items are not subject to public discussion at this meeting because the vote taken at the previous meeting was final. Resolutions concerning decisions made at previous meetings are for the purpose of memorializing the decision to assure the accuracy of the findings, the prior vote, and any conditions imposed.

Items in Consent Calendar Section B have not been discussed previously by the Council. If discussion is desired, an item may be removed from the Consent Calendar and will be considered individually. Councilmembers may indicate a negative or abstaining vote on any individual item by so declaring prior to the vote on the motion to adopt the entire Consent Calendar. Items excluded from Consent Calendar will be taken up by the Council following the action on the consent calendar. The Council first will take up the items for which public speaker requests have been submitted. Public speakers are limited to (3) three minutes each. If a speaker slip is submitted late the speaker's time will be limited to (2) minutes. If more than 10 speaker slips are submitted each speaker's time will be limited to (2) two minutes each.

Items set for Public Hearing commence at 7:30 p.m. or as soon thereafter as practical. At that time the City Council will stop its other proceedings and move directly to Public Hearing items. At the conclusion of Public Hearings the City Council will continue the agenda where it left off. For Public Hearings involving zoning matters the appellant will be given 15 minutes to present their position to the City Council, including rebuttal time. All other testimony shall be limited to (3) three minutes per person and follow the rules as set forth under Oral Communication.

Items in Old Business are items which have appeared on previous agendas but have either been continued or tabled to this meeting with no final action having been taken. Public comment on any item is permitted under the public comment rules. Speakers should address whether they are supportive or opposed to either the recommended action or the motion before the City Council for decision.

Items in New Business are items which are appearing for the first time for formal action. Public comment on any item is permitted under the public comment rules. Speakers should address whether they are supportive or opposed to either the recommended action or the motion before the City Council for decision.

City Council Items are items which individual members of the City Council may bring up in terms of reporting to other members of the City Council, to propose future agenda items or to suggest future staff assignments. Items discussed under City Council Items follow the same rules as set forth under Oral Communications in terms of the actions the City Council may take on any item brought up under this portion of the agenda. Each Councilmember's oral item presentations are limited to four minutes. No new items will be taken-up after 10:30 p.m. without a two-thirds vote of the City Council.

City Council meetings are aired on City of Malibu Government Access Channel 3. Broadcasts on Channel 3 occur at 8:00 a.m. and 8:00 p.m. Monday, Wednesday and Friday, Tuesday and Thursday at 8:00 p.m., and at 2:00 p.m. on both Saturday and Sundays. Copies of the staff reports or other written documentation relating to each item of business described above are on file in the office of the City Clerk, Malibu City Hall, 23815 Stuart Ranch Road, Malibu, California and are available for public inspection during regular office hours which are 8:00 a.m. to 5:00 p.m., Monday through Thursday and 8:00 a.m. to 4:30 p.m., Friday. Copies of staff reports may be purchased for \$0.10 per page. Pursuant to State law, this agenda was posted at least 72 hours prior to the meeting at the Malibu City Offices, Malibu Community Center at Point Dume and Malibu Community Library. The City Hall phone number is (310) 456-2489. To contact City Hall using a telecommunication device for the deaf (TDD), please call (800) 735-2929 and a California Relay Service operator will assist you. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Building & Safety Director Victor Peterson, (310) 456-2489, ext. 251. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADD Title II]. Requests for use of audio or video equipment during a Council meeting should be directed to Jena Chanel at (310) 456-2489 ext. 278 or jchanel@ci.malibu.ca.us at least 48 hours prior to the meeting.

I hereby certify under penalty of perjury, under the laws of the State of California, that the foregoing agenda was posted in accordance with the applicable legal requirements. Dated this 7th day of July 2004.

Lisa Pope, City Clerk